

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

ROBERT SIMMONS, N10474,)
)
Plaintiff,)
)
vs.)
)
SHAWN BRASHER,)
CHRISTOPHER B. BLEDSOE,)
C/O GLOVER,)
LU WALKER,)
C/O BELTZ,)
)
Defendants.)

Case No. 23-cv-2829-DWD

MEMORANDUM AND ORDER

DUGAN, District Judge:

On November 13, 2023, the Court revoked Plaintiff's IFP status after it determined that he failed to disclose his status as 'struck out' by the terms of 28 U.S.C. § 1915(g). (Doc. 9). Plaintiff was directed to pay the full filing fee of \$402 by November 30, 2023, and he was warned that failure to do so would result in the dismissal of his case. (Doc. 9); *see also* Fed. R. Civ. P. 41(b); *James v. McDonald's Corp.*, 417 F.3d 672, 681 (7th Cir. 2005) (under Rule 41(b) a court has authority to dismiss an action for failure to prosecute if a party does not provide a timely response to a court order). To date, the Court has not received Plaintiff's filing fee, or any other correspondence. Based on Plaintiff's failure to pay the fee or to communicate with the Court, Plaintiff's case is now dismissed for failure to prosecute. The Clerk of Court is **DIRECTED** to enter judgment accordingly, and to close this case.

The filing fee was incurred at the time the case was filed, so the Clerk of Court is **DIRECTED** to continue to collect the fee. *See* 28 U.S.C. § 1915(b)(1); *Lucien v. Jockisch*, 133 F.3d 464, 467 (7th Cir. 1998). Accordingly, the agency having custody of the plaintiff is directed to remit the \$402.00 filing fee from his prison trust fund account if such funds are available. If he does not have \$402.00 in his account, the agency must send an initial payment of 20% of the current balance or the average balance during the past six months, whichever amount is higher. Thereafter, the agency shall begin forwarding monthly payments of 20% of the preceding month's income credited to Plaintiff's trust fund account (including all deposits to the inmate account from any source) until the statutory fee of \$402.00 is paid in its entirety. The agency having custody of Plaintiff shall forward payments from Plaintiff's account to the Clerk of Court each time the Plaintiff's account exceeds \$10.00 until the \$402.00 filing fee is paid. Payments shall be mailed to: Clerk of the Court, United States District Court for the Southern District of Illinois. The Clerk is **DIRECTED** to mail a copy of this Order to the Trust Fund Officer at the Shawnee Correctional Center upon entry of this Order.

IT IS SO ORDERED.

Dated: January 3, 2024

/s David W. Dugan

DAVID W. DUGAN
United States District Judge

